

**FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND**

APPLICANT: Douglas Schrodel

ASSESSMENT DISTRICT: 1

CASE NUMBER: 2025-0165-V

COUNCIL DISTRICT: 7

HEARING DATE: October 30, 2025

PREPARED BY: David Russell
Planner

DR

REQUEST

The applicant is seeking a variance to allow a new dwelling and associated facilities with less setbacks than required and with disturbance to slopes of 15% or greater on property located at 327 Arbutus Drive, in Edgewater.

LOCATION AND DESCRIPTION OF SITE

The subject property is located approximately 600 feet northwest of the intersection of Arbutus Drive and Beach Drive, within the Glebe Heights neighborhood (Lot 236, Parcel 134, Grid 20, Tax Map 56). This 4,000 square foot, non-waterfront property is unimproved and rectangular in shape. The property is zoned R2 – Residential and located entirely within the Chesapeake Bay Critical Area, designated as a Limited Development Area (LDA), and impacted by steep slopes.

PROPOSAL

The applicant proposes the construction of a dwelling, with disturbance to steep slopes. The proposed development includes a 2-story dwelling, with a 1,040 square foot footprint, a 10' x 6' patio, 3' retaining wall, and 18' x 18' parking pad. The total amount of proposed impervious lot coverage is 1,500 square feet.

REQUESTED VARIANCES¹

§ 17-8-201 of the Anne Arundel County Code states that development in the limited development area (LDA) or in the resource conservation area (RCA) may not occur within slopes of 15% or greater unless development will facilitate stabilization of the slope; is to allow connection to a public utility; or is to provide direct access to the shoreline. All disturbance shall be limited to the minimum necessary. The proposed development will disturb slopes of 15% or greater, outside of the above referenced allowable conditions, necessitating a variance to this section.

FINDINGS

The property is approximately 4,000 square feet, well below the required R2 minimum lot size of 10,000 square feet (when served by public sewer). At approximately 40 feet wide, the property is 30 feet narrower than the required 70 foot minimum. Although substantially undersized for the

¹This case was originally advertised to include a variance to zoning setbacks. After further review, this office has determined that a setback variance is not required for the proposed development.

R2 zoning district, the property is comparable in size to nearby lots.

Agency Comments

The **Health Department** has reviewed the variance request, including reduced setbacks and buffers, increased lot coverage, and disturbance of slopes greater than 15%. The Department also reviewed the property's well water supply system and determined that the request will not adversely affect the well water supply and has no objection.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

The **Inspections and Permits Department** reviewed the variance request and provided the following comments.

1. We defer to the Department of Health for a reduced setback of a proposed water well from a property line.
2. A Proposed tree line is missing from the plans.
3. From the Pre-File Review: Per Geocortex it appears a lateral for the pressure sewer may already be existing. This must be located prior to the formal Variance application being made, as it will affect the proposed locations of the Public Utility Easement and associated proposed Mayo Tank, driveway, and house. There may be a conflict with the existing public storm drain inlet. Variance Review: A point-by-point response was not submitted so it is unknown if an existing sewer pressure lateral was searched for and/or located, as it is not shown on the current plan.
4. From the Pre-File: The existing public inlet in the front yard appears to be removed or turned off. What is to become of it? Note, no other utilities will be allowed in the sewer utility easement without the Department of Public Works' written authorization per II.E.1.a.6) on page VII-9 of 40 of the DPW Design Manual, Chapter VII Sanitary Sewers. A modification may be required as part of the written authorization. Variance Review: A point-by-point response was not submitted so it is unknown if an existing inlet was searched for and/or located, as it is not shown on the current plan.
5. A portion of the neighbor's retaining wall is on this property. Show and label the existing easement. If there is no easement, what is to be done?
6. From the Pre-File: Can a portion of this retaining wall be removed to grade the property without damaging the adjacent property? What is the legal situation associated with the neighbor's wall on this property, assuming it is supporting the neighbor's house, driveway, etc. and assuming it has most likely been in-place for years? Variance Review: A point-by-point response was not submitted so the comment remains. Since this is not clear, the proposed plan may not be viable and additional variance may need to be sought.
7. The development may be detrimental to the Public Health as a house is proposed at the bottom of a riprap channel upstream of the only inlet on this side of the street in this area.
8. The development may impair the appropriate use or development of the surrounding properties and the development of this lot if a house is placed at the bottom of a riprap channel upstream of the only inlet on this side of the street in the area.
9. Feasibility of the development must be determined considering the terrain, environmental factors, physical characteristics of the prevalent soil strata and its ability to suitably treat the

proposed storm water runoff and surface groundwater conditions. The swm practice locations and existing overland flow (riprap channel) should not require any additional regulatory permitting. The proposed development must be compatible with the surrounding community and consider downstream properties in design.

10. Stable conveyance of all runoff/stormwater (upstream and on this lot and applied rain barrel effluent) and maintenance of natural flow patterns must be demonstrated.
11. Ensure the proposed improvement including runoff, seepage, and slope saturation does not adversely impact the integrity of the slope and potential impact of slope failure and negatively affect the proposed home and/or adjacent homes.
12. The applicant should evaluate and implement site planning alternatives in accordance with 18-16-201.
13. Identify the site outfall to review the site plan and provide feedback regarding potential impact.
14. All storm drain/stormwater conveyance systems shall be designed so that no building or habitable structure, either proposed or existing, is flooded or has water impounded against it during the 100-year storm event.
15. Evaluate and report on the site to ensure any existing or possible proposed downstream flooding and flooding on the proposed development including nuisance flooding issues will be exacerbated by the proposed development.
16. Design professionals should review site runoff and potential (negative, adverse) impacts to neighboring properties, due to changed grades/elevation/flow paths on a proposed project.
17. An existing riprap channel is on the property. Show and label the existing easement. If there is no easement, what is to be done? Address at Grading Permit.
18. Note where the topo is from, month, year, and firm. Note if field-run, aerial or County. If County, note what year it is from. Note, the most current County topo is from 2023. Address at Grading Permit
19. A Right-To-Discharge may be required at Grading Permit.
20. No portion of the walls/retaining walls are permitted within a Public Utility Easement. If the wall or its foundation/footer along the driveway is in the PUE, it must be removed. Address at Grading Permit.
21. Provide a qualified professional review of the condition of suitability of steep slopes; ensure the proposed improvement including quality and other limits do not adversely impact the intensity of the slope and can cause slope failure. Address at Grading Permit.
22. Provide soil boring(s) and show any seasonally high-water table elevation(s) since a basement is proposed. If the water table is encountered and is higher than the proposed basement floor elevation, it might be intercepted by the basement, creating issues for the homeowner, public safety and other safety impacts. A Qualified Professional will also be required to perform a feasibility of the basement and present potential mitigation options to address the issue. Address at Grading Permit.
23. Building permit(s) are required for the retaining wall(s).
24. The above is provided as a courtesy review as information for review and consideration comments for this variance application. Additional comments will be generated at the Permit stages.

25. The above comments not addressed for this variance hearing/at the hearing and/or pushed to the Grading Permit must be addressed in a point-by-point response letter with the initial/next submittal of the grading permit.

The **Critical Area Team** provided the following comments:

The request has been revised since the pre-file submission and complies with the lot coverage requirements. We offer no objection to the request to disturb steep slopes provided the applicant can demonstrate that the disturbance has been minimized. Mitigation will be addressed with the applicable permits.

The **Critical Area Commission** commented the following:

The applicant is requesting to develop a 4,000 square-foot, vested lot located within the Critical Area Limited Development Area with 1,500 square feet of lot coverage. The development will result in the clearing of 3,640 square feet of vegetation to accommodate the house and associated features. Our office notes that the applicants are proposing the maximum amount of lot coverage permitted on a grandfathered lot of this size, and that this office would oppose any future variance request to exceed allowable lot coverage. The Administrative Hearing Office must find that each and every one of the Critical Area Variance Standards have been met, including that this proposal meets unwarranted hardship and that it would not adversely affect water quality and wildlife or plant habitat. If the AHO finds that each and every one of the standards have been addressed, then appropriate mitigation is required.

Variance Criteria

To be granted a variance it must be found that because of unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape or exceptional topographical conditions peculiar to and inherent in the particular lot, there is no reasonable possibility of developing the lot in strict conformance with this article; or, because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicant to develop the lot.

The property is substantially narrower and significantly smaller than the minimum lot size required in the R2 zoning district. Development of the site is constrained by its narrowness and limited area, making compliance with the Code difficult without variances. The proposed dwelling and associated features have been designed to utilize the maximum amount of allowable Critical Area lot coverage, leaving no available lot coverage for any potential accessory structures. As a result, future variance requests for added Critical Area lot coverage will not be supported.

The Critical Area team has determined that the proposed steep slope disturbance will not negatively impact the property or surrounding properties. Within this community, the residential development of excessively narrow and undersized lots is common. Directly across the street from the subject property, less than 40 feet away, are 3 residentially developed lots. These lots have an approximate width of 40 feet, matching the subject property. Although they are slightly larger in area (between 6,000 and 7,000 square feet), they remain significantly undersized for the

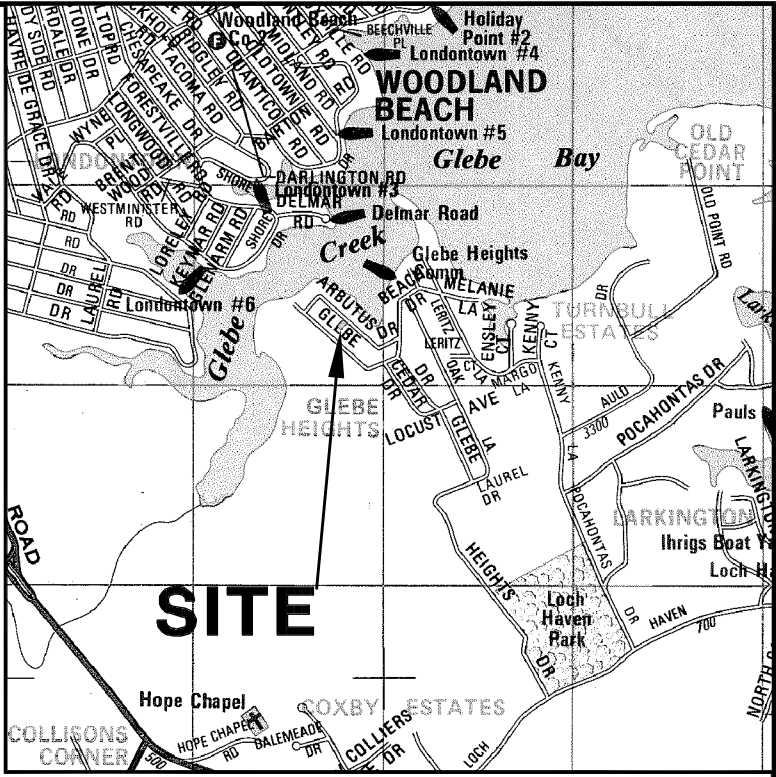
R2 zoning district. Of the three properties, two received variances for steep slope disturbance (2022-0005-V and 2018-0078-V), and one of those two also received a setback variance (2018-0078-V). The proposed development aligns with existing development in the immediate vicinity.

Based on these factors, the request can be considered the minimum necessary to afford relief. As such, the granting of the variance would not alter the essential character of the neighborhood or district in which the lot is located, would not substantially impair the appropriate use or development of adjacent property. However, based on comments from the Department of Inspections and Permits the development may be detrimental to the public health as proposed the house is at the bottom of a riprap channel upstream of the only inlet on this side of the street in this area.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, this Office recommends ***conditional approval*** of the requested variance to § 17-8-201 to allow the disturbance of slopes of 15% or greater in an LDA designated area, under the condition that the Department of Inspections and Permits comments are adequately addressed and the Department of Inspections and Permits deems the proposed development to no longer be ‘detrimental to public health’.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.



VICINITY MAP

SCALE: 1" = 2,000'
Copyright ADC The Map People
Permitted Use Number 20403131



SITE ANALYSIS

- EXISTING ZONING: R2
- TOTAL SITE AREA: 4,000 SF
- LDA CRITICAL AREA
- PROPOSED PRIVATE WELL
- PROPOSED PUBLIC SEWER (MAYO TANK)

IMPERVIOUS LOT COVERAGE

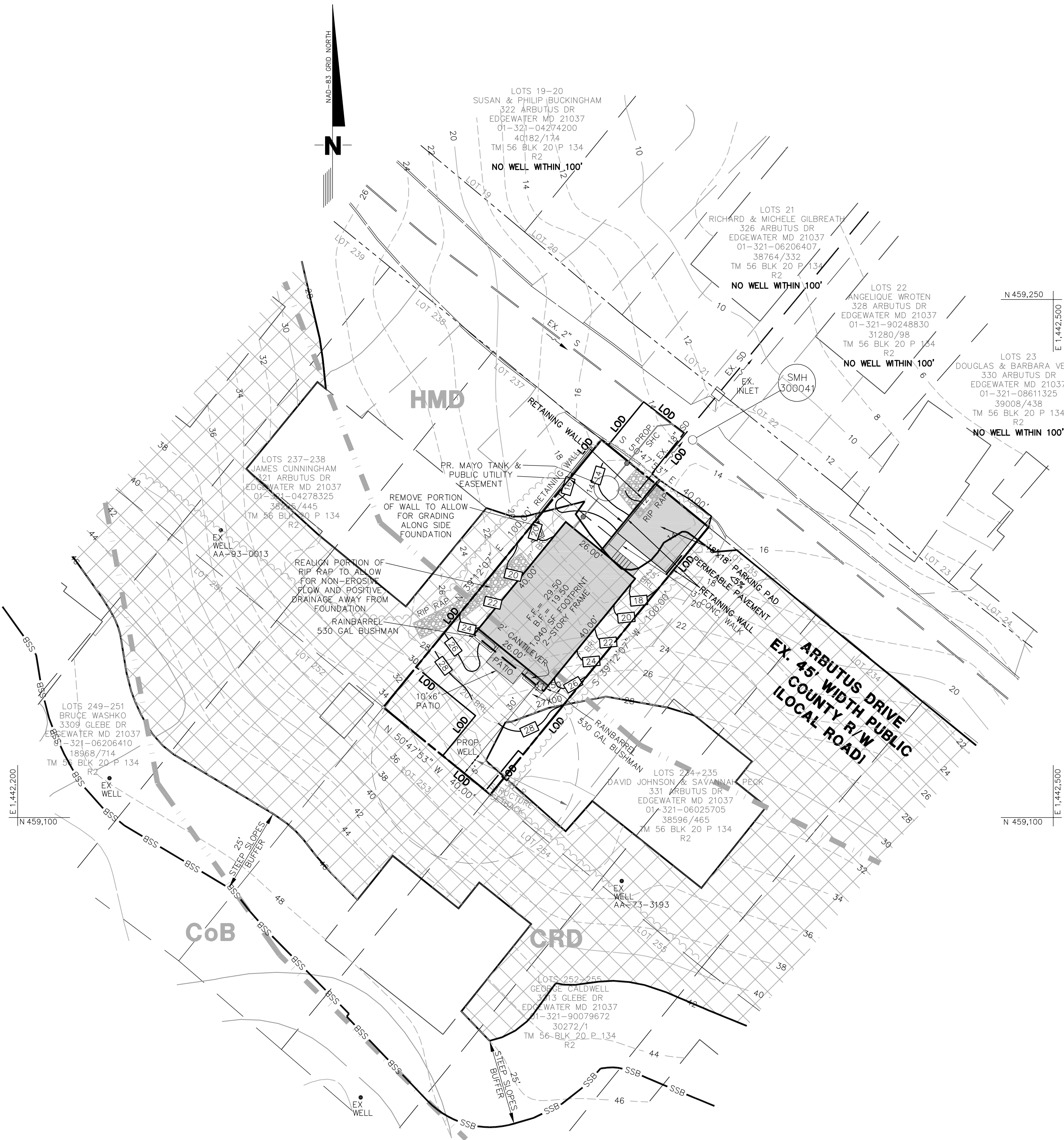
PRE-DEVELOPMENT	
Ex. House	0 sq. ft.
Ex. Driveway & Sidewalks	0 sq. ft.
Ex. Accessory Structures	0 sq. ft.
TOTAL Ex.	0 sq. ft.

POST-DEVELOPMENT	
Prop. House	1,092 sq. ft.
Prop. Driveway & Sidewalks	408 sq. ft.
Prop. Accessory Structures	0 sq. ft.
TOTAL Prop.	1,500 sq. ft.

TOTAL Allowed 1,500 sq. ft.

NATURE OF VARIANCE

- A VARIANCE TO ARTICLE 17-8-201 TO ALLOW DISTURBANCE TO SLOPES GREATER THAN 15% IN THE LDA CRITICAL AREA.



LEGEND	
---152---	Existing Contours
---152---	Proposed Contours
~~~~~	Existing Tree Line
---	Soils Line
EX. 2" FM	Existing Sewer
EX. 18" SD	Existing Storm Drain
X	Existing Fence Line
SSB	Steep Slope Buffer
○	Existing Pole
○	Existing Sewer Cleanout
●	Proposed Sewer Cleanout
■	Proposed Impervious
■	Steep Slopes

SOIL CLASSIFICATION CHART

SYMBOL	NAME	HYDROLOGIC SOIL GROUP
HMD	Howell and Annapolis soils	C
CRD	Collington and Annapolis soils	B

I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland, License # 23380, Expiration date 8/19/2026

#	REVISIONS:	APPROVED BY:	DATE:

**ANAREX, INC**  
CIVIL ENGINEERING SERVICES  
LAND SURVEYING  
303 Najoles Road - Suite 114  
Millersville, MD 21108-2512  
Phone: 410-987-6901  
www.anarex.com

SHEET 1 OF 1  
SITE PLAN

GLEBE HEIGHTS

LOT 236  
327 ARBUTUS DRIVE, EDGEWATER, MD 21037  
GP# TAX ACCOUNT#01-321-06206406  
TAX MAP 56 BLOCK 20 PARCEL 134  
DATE: AUGUST, 2025 ZONING: R2 ZIP CODE: 21037  
FIRST ASSESSMENT DISTRICT ANNE ARUNDEL COUNTY, MARYLAND





303 Najoles Road - Suite 114  
Millersville, MD 21108

Phone: 410-987-6901  
Fax: 410-987-0589

March 22, 2025

Ms. Sterling Seay  
Anne Arundel County  
Office of Planning and Zoning  
2664 Riva Road  
Annapolis MD 21401

Re: **Glebe Heights**  
**Lot 236**  
T.M. 56 B. 20 P. 134

Dear Ms. Seay,

Please accept this as our formal variance request to Article 17-8-201 of the Anne Arundel County Code, for property located at **327 Arbutus Drive, Edgewater, MD 21037**, zoned **R2 – Residential District** and located in the **Limited Development Area (LDA) of the Chesapeake Bay Critical Area**.

This request seeks to:

1. Permit **disturbance of slopes 15% or greater**, as regulated under Article 17-8-201.

We are requesting this variance to allow for a house to be built on an existing platted lot. The proposed house will be 2 stories with a mostly exposed basement and 28'+/- tall. The house will be 26' wide by 40' deep (1,040 sf footprint). The house will sit back 25' from the North lot line (front), 35' from the South lot line (rear), 7' from the West lot line (side) and 7' from the East lot line (side).

Explanation as required by Article 18, Section 16-305(b)

The topographical conditions of this lot cause implementation of the County's critical area program to cause unwarranted hardship on the property as the entire area within the building restriction lines is steep slopes. Literal interpretation of COMAR, Title 27, Criteria for Local Critical Area Program Development or the County's critical area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas and will not confer special privilege onto the applicant as adjacent houses are also built within these steep slopes. These variance requests are not results of actions by the applicant and there has been no commencement of development before this application for a variance was filed and does not have any bearing or connection to building on neighboring properties. The granting of this variance will not adversely affect water quality and fish as the flow characteristics of the site remain unchanged in the proposed condition as ESDv for the site has been provided.

Explanation as required by Article 18, Section 16-305(c)

We believe the granting of this variance is warranted because the requested variance is the minimal necessary to afford relief based upon the unique physical conditions such as the topography. As previously noted, the entire building envelope of this lot is encumbered by steep slopes. The granting of this variance will not alter the character of the neighborhood as the proposed house is typical of development in the area. This variance will not impair the appropriate use or development of the surrounding property as it will not deny access or the possibility to build on neighboring lots. The granting of this variance will not be detrimental to the welfare of the public. Mitigation planting will be provided to ensure no net loss of forest cover or habitat value.

If you have any questions or need any additional information please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in blue ink that reads "MJ Werner". The signature is written in a cursive, flowing style.

Michael J. Werner, P.E.

NO TITLE EXAMINATION DEED

This Deed, MADE THIS 20th day of January, 2011, by and between Diana L. Schrodel, (Mother) surviving joint tenant, party of the first part, Grantor; and Douglas R. Schrodel and Dana C. Schrodel, (Sons), party of the second part, Grantees.

Witnesseth

That for and in consideration of the sum of NO DOLLARS (\$0) but other good and valuable consideration which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt whereof is hereby acknowledged, the said Grantor does grant and convey to the said Douglas R. Schrodel and Dana C. Schrodel, as tenants in common, their personal representatives and assigns in fee simple, all that lot of ground situate in Anne Arundel County, Maryland and described as follows, that is to say:

Lots 241 and 242 on the plat of GLEBE HEIGHTS which plat is recorded among the Plat Records of Anne Arundel County, Maryland in Plat book No. 8, folio 43.

Being all and the same real estate described and conveyed to Leslie R. Pennington and Diana L. Schrodel from Leslie R. Pennington, surviving tenant by the entirety of Adelaide M. Pennington by deed dated August 15, 1999 and recorded in Liber 9430, folio 83 among the Land Records of Frederick County, Maryland, the said Leslie R. Pennington having previously departed this life and sole title having vested in Diana L. Schrodel by operation of law.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

IN TO GOVERNANCE  
RECORDING FEE 20.00  
TOTAL 40.00  
Reg# AA15 Rcd# 58487  
RPD TET Bk# 978  
Mar 02, 2011 01:29 PM

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Douglas R. Schrodel and Dana C. Schrodel, as tenants in common, their personal representatives and assigns of the survivor, in fee simple.

And the said party of the first part hereby covenants that she has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that she will warrant specially the property hereby granted; and that she will execute such further assurances of the same as may be requisite.

3/2/2011 12:26 PM Csh 0001 Reg 0005  
T/Ref 0003030394  
01 - Recordation Tax Division  
\$0.00  
Validation Number: 0003-033004  
Document Type: Deed

RCCT 132106206420  
ALL EASEMENTS  
OF 3/2/11 A.A. COUNTY  
BY: [Signature]



**As Witness** the hand and seal of said Grantor, the day and year first above written.

WITNESS:



Diane L Schrodel {Seal}

Diana L. Schrodel

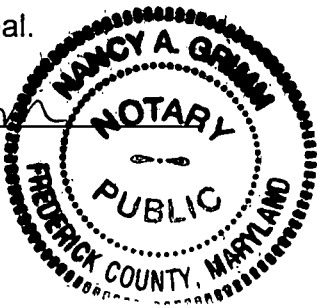
State of Maryland, County of Frederick, to wit:

I HEREBY CERTIFY, That on this 20th day of January, 2011, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared **Diana L. Schrodel**, the Grantor herein, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be her act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My commission expires: 5.6.2014

Nancy A. Green  
Notary Public



THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.



Tod P. Salisbury, Attorney

AFTER RECORDING, PLEASE RETURN TO:  
**Grantee(s)**  
**c/o Diana L. Schrodel**  
**9834 Steiner Smith Road**  
**Woodsboro, MD 21798**



# State of Maryland Land Instrument Intake Sheet

☐ Baltimore City    ☒ County: Anne Arundel

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.  
(Type or Print in Black Ink Only—All Copies Must Be Legible)

BK 23263 PG 502

Space Reserved for Circuit Court Clerk Recording Validation

1	Type(s) of Instruments	<input type="checkbox"/> Check Box if addendum Intake Form is Attached.)			
		1 Deed Deed of Trust	Mortgage Lease	Other _____	Other _____
2	Conveyance Type Check Box	Improved Sale Arms-Length [1]	<input checked="" type="checkbox"/> Unimproved Sale Arms-Length [2]	Multiple Accounts Arms-Length [3]	Not an Arms- Length Sale [9]
3	Tax Exemptions (if applicable) Cite or Explain Authority	Recordation			
		State Transfer			
		County Transfer			

4	Consideration and Tax Calculations	Consideration Amount		Finance Office Use Only Transfer and Recordation Tax Consideration	
		Purchase Price/Consideration	\$ 0.00	Transfer Tax Consideration	\$
		Any New Mortgage	\$	X (     ) % =	\$
		Balance of Existing Mortgage	\$	Less Exemption Amount	\$
		Other:	\$	Total Transfer Tax	\$
		Other:	\$	Recordation Tax Consideration	\$
		Full Cash Value:	\$	X (     ) per \$500 =	\$
				TOTAL DUE	\$

5	Fees	Amount of Fees	Doc. 1	Doc. 2	Agent:  Tax Bill:  C.B. Credit:  Ag. Tax/Other:
		Recording Charge	\$ 20.00	\$	
		Surcharge	\$ 20.00	\$	
		State Recordation Tax	\$	\$	
		State Transfer Tax	\$	\$	
		County Transfer Tax	\$	\$	
		Other	\$	\$	
		Other	\$	\$	

6	Description of Property SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).	District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. Loc.	
		08 01	206406					<input type="checkbox"/> (5)
		Subdivision Name		Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	Sq Ft/Acreage (4)
		Glebe Heights		236				
		Location/Address of Property Being Conveyed (2)						
		Arbutus Drive, Edgewater, MD 21037						
		Other Property Identifiers (If applicable)					Water Meter Account No.	
		Residential <input checked="" type="checkbox"/> or Non-Residential <input type="checkbox"/> Fee Simple <input checked="" type="checkbox"/> or Ground Rent <input type="checkbox"/> Amount:    N/A						
Partial Conveyance? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    Description/Amt. of Sq Ft/Acreage Transferred:    N/A								
If Partial Conveyance, List Improvements Conveyed:    N/A								

7	Transferred From	Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
		Diana L. Schrodel	
		Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	Doc. 2 – Owner(s) of Record, if Different from Grantor(s)

8	Transferred To	Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
		Douglas R. Schrodel	
		Dana C. Schrodel	
		New Owner's (Grantee) Mailing Address	
Mail to: c/o Diana L. Schrodel - 9834 Steiner Smith Road, Woodsboro, MD 21798			

9	Other Names to Be Indexed	Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 – Additional Names to be Indexed (Optional)

10	Contact/Mail Information	Instrument Submitted By or Contact Person		<input type="checkbox"/> Return to Contact Person
		Name: Susan Koons		<input type="checkbox"/> Hold for Pickup
		Firm Salisbury & McLister, LLP		<input checked="" type="checkbox"/> Return Address Provided
		Address: 100 West Church Street Frederick, MD 21701    Phone: (301) 694-7235		

11	Assessment Information	IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER	
		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Will the property being conveyed be the grantee's principal residence?
		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Does transfer include personal property? If yes, identify: _____
		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only – Do Not Write Below This Line							
Terminal Verification		Agricultural Verification		Whole		Part	
Transfer Number		Date Received:		Deed Reference:		Assigned Property No.:	
Year	20	20		Geo.	Map	Sub	Block
Land				Zoning	Grid	Plat	Lot
Buildings				Use	Parcel	Section	Occ. Cd.
Total				Town Cd.	Ex. St.	Ex. Cd.	
REMARKS:							

Space Reserved for County Validation



303 Najoles Road - Suite 114  
Millersville, MD 21108

Phone: 410-987-6901  
Fax: 410-987-0589

# GLEBE HEIGHTS

## **Lots 236**

327 Arbutus Drive, Edgewater, MD 21037

## **Critical Area Report**

July, 2025

## **INTRODUCTION**

The site is 4,000 square feet in the Glebe Heights subdivision, known as Lot 236 located at 327 Arbutus Drive, Edgewater, MD 21037. The site is entirely within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area.

## **PROPOSED USE**

The site is currently vacant and is being proposed as a single family detached dwelling site. The proposed house will be served by private well and public sewer.

## **EXISTING CONDITIONS & WOODLAND MITIGATION**

The site is currently vacant and is 100% covered with tree canopy. The site currently has 4,000 sf of existing canopy with the proposed clearing being 3,640 square feet. The clearing is being minimized to only what is needed for construction and due to the LDA critical area designation, mitigation will be addressed via payment to an off-site land bank.

## **WATER QUALITY & HABITAT IMPACT MINIMIZATION**

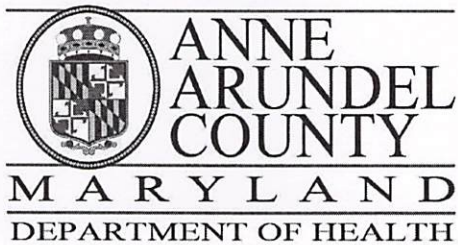
The site will have stormwater management as required by the County and State codes that will be reviewed and approved prior to work commencing. The stormwater management will provide the water quality volume as required by code. During construction, the entire site will be wrapped in silt fence and a stabilized construction entrance will be used to keep all sediment from leaving the site.

## **IMPERVIOUS CALCULATIONS**

The site currently has no impervious area. The site in the developed condition will have a lot coverage of 1,500 square feet.

## **STEEP SLOPES**

The entire buildable area of the site is encumbered by steep slopes and will require variance approval to be developed under current county codes.



J. Howard Beard Health Services Building  
3 Harry S. Truman Parkway  
Annapolis, Maryland 21401  
Phone: 410-222-7095 Fax: 410-222-7294  
Maryland Relay (TTY): 711  
www.aahealth.org

**Tonii Gedin, RN, DNP**  
**Health Officer**

**MEMORANDUM**

TO: Sadé Medina, Zoning Applications  
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager  
Bureau of Environmental Health 

DATE: August 25, 20025

RE: Douglas R. Schrodel  
327 Arbutus Drive  
Edgewater, MD 21037

NUMBER: 2025-0165-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a dwelling and associated facilities with less setbacks and buffer that required, greater lot coverage than allowed, and with disturbance to slopes of 15% or greater.

The Health Department has reviewed the well water supply system for the above referenced property. The Health Department has determined that the proposed request does not adversely affect the well water supply system. The Health Department has no objection to the above referenced request.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay

Variance Engineering & Utility Comments  
2025-0165-V  
327 Arbutus Drive

---

**Pre-File Variance Requested:** Variance to 17-8-201 to allow disturbance to slopes greater than 15% in the LDA Critical Area and 17-8-402 to allow 130 extra square feet of lot coverage in the LDA Critical Area.

**Comments:**

1. We defer to the Department of Health for a reduced setback of a proposed water well from a property line.
2. A Proposed tree line is missing from the plans.
3. From the Pre-File Review: Per Geocortex it appears a lateral for the pressure sewer may already be existing. This must be located prior to the formal Variance application being made, as it will affect the proposed locations of the Public Utility Easement and associated proposed Mayo Tank, driveway, and house. There may be a conflict with the existing public storm drain inlet. Variance Review: A point-by-point response was not submitted so it is unknown if an existing sewer pressure lateral was searched for and/or located, as it is not shown on the current plan.
4. From the Pre-File: The existing public inlet in the front yard appears to be removed or turned off. What is to become of it? Note, no other utilities will be allowed in the sewer utility easement without the Department of Public Works' written authorization per II.E.1.a.6) on page VII-9 of 40 of the DPW Design Manual, Chapter VII Sanitary Sewers. A modification may be required as part of the written authorization. Variance Review: A point-by-point response was not submitted so it is unknown if an existing inlet was searched for and/or located, as it is not shown on the current plan.
5. A portion of the neighbor's retaining wall is on this property. Show and label the existing easement. If there is no easement, what is to be done?
6. From the Pre-File: Can a portion of this retaining wall be removed to grade the property without damaging the adjacent property? What is the legal situation associated with the neighbor's wall on this property, assuming it is supporting the neighbor's house, driveway, etc. and assuming it has most likely been in-place for years? Variance Review: A point-by-point response was not submitted so the comment remains. Since this is not clear, the proposed plan may not be viable and additional variance may need to be sought.
7. The development may be detrimental to the Public Health as a house is proposed at the bottom of a riprap channel upstream of the only inlet on this side of the street in this area.
8. The development may impair the appropriate use or development of the surrounding properties and the development of this lot if a house is placed at the bottom of a riprap channel upstream of the only inlet on this side of the street in the area.
9. Feasibility of the development must be determined considering the terrain, environmental factors, physical characteristics of the prevalent soil strata and its ability to suitably treat the proposed storm water runoff and surface groundwater conditions. The swm practice locations and existing overland flow (riprap channel) should not require any additional regulatory permitting. The proposed development must be compatible with the surrounding community and consider downstream properties in design.
10. Stable conveyance of all runoff/stormwater (upstream and on this lot and applied rain barrel effluent) and maintenance of natural flow patterns must be demonstrated.
11. Ensure the proposed improvement including runoff, seepage, and slope saturation does not

adversely impact the integrity of the slope and potential impact of slope failure and negatively affect the proposed home and/or adjacent homes.

12. The applicant should evaluate and implement site planning alternatives in accordance with 18-16-201.
13. Identify the site outfall to review the site plan and provide feedback regarding potential impact.
14. All storm drain/stormwater conveyance systems shall be designed so that no building or habitable structure, either proposed or existing, is flooded or has water impounded against it during the 100-year storm event.
15. Evaluate and report on the site to ensure any existing or possible proposed downstream flooding and flooding on the proposed development including nuisance flooding issues will be exacerbated by the proposed development.
16. Design professionals should review site runoff and potential (negative, adverse) impacts to neighboring properties, due to changed grades/elevation/flow paths on a proposed project.
17. An existing riprap channel is on the property. Show and label the existing easement. If there is no easement, what is to be done? Address at Grading Permit.
18. Note where the topo is from, month, year, and firm. Note if field run, aerial or County. If County note what year it is from. Note, the most current County topo is from 2023. Address at Grading Permit
19. A Right-To-Discharge may be required at Grading Permit.
20. No portion of the walls/retaining walls are permitted within a Public Utility Easement. If the wall or it's foundation/footer along the driveway is in the PUE, it must be removed. Address at Grading Permit.
21. Provide a qualified professional review of the condition of suitability steep slopes; ensure the proposed improvement including quality and other limits do not adversely impact the intensity of the slope and can cause slope failure. Address at Grading Permit.
22. Provide soil boring(s) and show any seasonally high-water table elevation(s) since a basement is proposed. If the water table is encountered and is higher than the proposed basement floor elevation, it might be intercepted by the basement, creating issues for the homeowner, public safety and other safety impacts. A Qualified Professional will also be required to perform a feasibility of the basement and present potential mitigation options to address the issue. Address at Grading Permit.
23. Building permit(s) are required for the retaining wall(s).
24. The above is provided as a courtesy review as information for review and consideration comments for this variance application. Additional comment will be generated at the Permit stages.
25. The above comments not addressed for this variance hearing/at the hearing and/or pushed to the Grading Permit must be addressed in a point-by-point response letter with the initial/next submittal of the grading permit.



Jamileh Soueidan -DNR- &lt;jamileh.soueidan@maryland.gov&gt;

**CAC Comments: 2025-0165-V; Schrodel (AA 0239-25)**

1 message

**Jamileh Soueidan -DNR-** <jamileh.soueidan@maryland.gov>  
To: Sadé Medina <pzmedi22@aacounty.org>

Thu, Sep 18, 2025 at 1:19 PM

Good afternoon,

Our office has reviewed the above-referenced variance request and provide the following comments:

- The applicant is requesting to develop a 4,000 square-foot, vested lot located within the Critical Area Limited Development Area with 1,500 square feet of lot coverage. The development will result in the clearing of 3,640 square feet of vegetation to accommodate the house and associated features. Our office notes that the applicants are proposing the maximum amount of lot coverage permitted on a grandfathered lot of this size, and that this office would oppose any future variance request to exceed allowable lot coverage. The Administrative Hearing Office must find that each and every one of the Critical Area Variance Standards have been met, including that this proposal meets unwarranted hardship and that it would not adversely affect water quality and wildlife or plant habitat. If the AHO finds that each and every one of the standards have been addressed, then appropriate mitigation is required.

Our comments have been submitted to the County's online portal.

Sincerely,  
Jamileh Soueidan

--

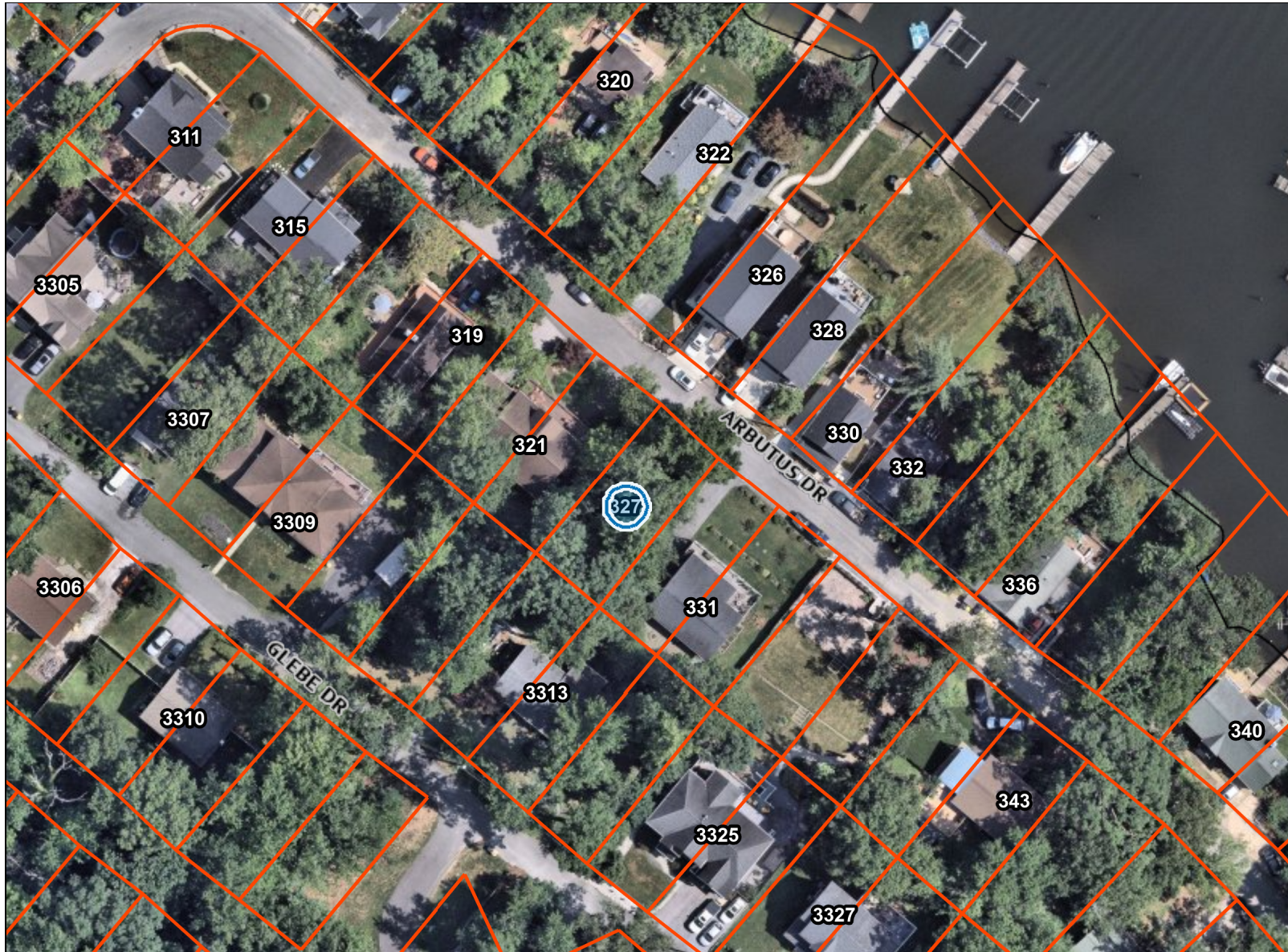


Critical Area Commission for the  
Chesapeake & Atlantic Coastal Bays  
[dnr.maryland.gov/criticalarea](https://dnr.maryland.gov/criticalarea)

Jamileh Soueidan (she/her)  
Natural Resources Planner  
1804 West Street, Suite 100  
Annapolis, MD 21401  
Office: [410-260-3462](tel:410-260-3462)  
Cell: [667-500-4994](tel:667-500-4994) (preferred)  
[jamileh.soueidan@maryland.gov](mailto:jamileh.soueidan@maryland.gov)



# 327 Arbutus Drive



## Legend

### Foundation

#### Addressing



#### Parcels



#### Parcels - Annapolis City



This map is a user generated static output from an Internet mapping site and is for reference only.  
Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Nearmap



0 100 200  
ft



THIS MAP IS NOT TO BE  
USED FOR NAVIGATION

Notes

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

**CASE NUMBER 2018-0078-V**

---

**ANGELIQUE WROTEN**

FIRST ASSESSMENT DISTRICT

DATE HEARD: MAY 31, 2018

---

ORDERED BY:

**JONATHAN A. HODGSON**  
ADMINISTRATIVE HEARING OFFICER

PLANNER: **JOAN A. JENKINS**

---

DATE FILED: **JUNE 6, 2018**

## **PLEADINGS**

Angelique Wroten, the applicant, seek a variance (2018-0078-V) to allow a dwelling that does not comply with the designated location of a principal structure on a waterfront lot, with less setbacks than required, with disturbance to slopes 15% or greater and to allow mooring pilings with less setbacks than required on property located at 328 Arbutus Drive, Edgewater, MD 21037.

## **PUBLIC NOTIFICATION**

The hearing notice was posted on the County's website in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175 feet of the subject property was notified by mail, sent to the address furnished with the application. Candice Bateman of DFI Engineering, submitted the affidavit of Jordan Ortiz indicating that the property was posted on May 16, 2018 (Applicant's Exhibit 1). Therefore, I find and conclude that there has been compliance with the notice requirements.

## **THE HEARING**

A hearing was held on May 31, 2018, in which witnesses were sworn and the following evidence was presented with regard to the proposed variance requested by the applicants.

## **THE PROPERTY**

The applicants own the subject property which has 40 feet of frontage on the northeast side of Arbutus Drive, 635 feet northwest of Beach Drive,



Edgewater. The subject property is identified as Lot 22 of Parcel 134 in Block 20 on Tax Map 56 in the Glebe Heights subdivision. The property comprises 6,173 square feet and is zoned R2–Residential District. This waterfront lot on Glebe Creek is designated in the Chesapeake Bay Critical Area as limited development area (LDA) and is also mapped in a buffer modification area (BMA). The property is currently improved with a driveway and a shed that straddles the lot line with Lot 23, and is to be removed.

### **THE PROPOSAL**

The proposal is to construct a new dwelling with a 3-story waterfront deck, driveway, well, Step and Gravity Tank system, and a pier with two pilings for a boatlift.

### **THE ANNE ARUNDEL COUNTY CODE**

§ 18-2-402(1) stipulates that the location of a principal structure on a waterfront lot is based on an approximate average of the location of principal structures on abutting lots intended to keep structures relatively in line with one another. There is no dwelling on the lot to the west; however, the proposed dwelling and deck project further forward than the façade of the dwelling on the abutting lot to the east necessitating a variance to this provision.

§ 18-4-601 requires a principal structure in an R2 district be setback 25 feet from the rear lot line. The applicant proposes to construct a dwelling 23.1 feet from the rear lot line requiring a variance of two feet to the 25-foot rear lot line setback requirement.

§ 17-8-201(a) states that development in the LDA designated areas may not occur on slopes of 15% or greater unless development will facilitate stabilization of the slope, is necessary to allow connection to a public utility, or is to provide direct access to the shoreline. All disturbance shall be limited to the minimum necessary. The proposed improvements will disturb 822 square feet of steep slopes.

§ 18-2-404(b) requires that a private pier or mooring piling shall be setback a minimum 15 feet from the extended property lines. The proposed boatlift pilings are located as close as three feet from the eastern property line extended requiring variances of 12 feet to the 15-foot setback requirement for both pilings.

### **THE HEARING RECORD**

#### **Recommendation of the Office of Planning and Zoning (OPZ)**

Joan A. Jenkins, a zoning analyst with the OPZ, testified that:

- The subject property is roughly rectangular-shaped. The lot does not meet the minimum width requirement (40 feet provided, 80 feet required) for a lot in the R2 district and is grossly undersized in area (6,173 square feet provided, 20,000 square feet required) for a lot not served by public sewer in the R2 district. Development of the site is constrained by the narrowness and small size of the property making compliance with the code difficult without variances.
- The existing critical area lot coverage is 319 square feet. With removal of the existing lot coverage and the addition of 1,606 square feet for construction of the proposed improvements, the post-construction lot coverage will be 1,606

square feet, which is well below the 2,043 square feet allowed under § 17-8-402 (b) of the Code.

- A review of the 2016 County aerial photograph shows an eclectic mix of dwellings in this older waterfront community. Homes nearby on the waterfront were built as early as 1930 and as late as 1978 all prior to critical area laws going into effect. Waterfront decks and piers are common amenities on waterfront homes.
- The applicants' letter of explanation indicates that the proposed dwelling is of modest size for the neighborhood and is seemingly in line with the adjacent homes. The letter states that the adjacent home on Lot 23 is located close to the roadway and would likely be closer to the water if it were reconstructed. The letter also states that the proposal is currently shown to provide the appropriate setbacks to the new Mayo system. In addressing the steep slopes, the letter explains that the entire frontage along the roadway is encumbered by 15% slopes or greater and the site cannot be accessed without disturbing the steep slopes. Regarding the rear setback variance request, the applicant writes that the lessened setback allows the proposed home to be move further from the shoreline but still allow for sufficient area for the Step and Gravity Septic tank. As for the boatlift pilings, the letter explains that due to the narrow width of the lot (40 feet) there is not sufficient area to provide mooring piles and that these piles will not have a negative impact on the adjacent piers or access to their slips/piers.
- The Critical Area Commission had no comment, but stated that appropriate mitigation should be provided.
- The Development Division (Critical Area Team) commented that the site contains a small area of steep slopes directly adjacent to Arbutus Drive, from which the site derives access. Disturbance to slopes is necessary to allow for any development of the lot. Minimization of the proposed slope disturbance is not possible due to the location of required utilities and site access.

- The Soil Conservation District had no comment on the variance request and will provide comments during the sediment control review.
- The Department of Inspections and Permits (Engineering Division) commented that the subject application meets the requirements of a complete stormwater preliminary plan. To avoid the Mayo tank easement the proposed drive should be off-set from the garage with the minimum taper. A modification to excessive driveway slope is required. The site will be served by individual private water well and public Mayo tank sewer service. Currently the plan shows the adjacent existing connection to be reestablished in the future. The reconnection must be done first and will require a separate PWA. While the proposed stormwater practice meets the environmentally sensitive design criteria, the clearing is excessive and an alternate practice is recommended and should be explored.
- The Health Department has reviewed the well water supply systems for the referenced property and has determined that the proposed request adversely affects the well water supply system. The Health Department recommends denial of the above referenced request. The proposed Mayo Tank does not meet the required setback to the neighboring well on Lot 23.
- OPZ received an email from a neighbor at 332 Arbutus Drive who has concerns over the shared Mayo Tank. He writes that when the grinder line is removed it will cut off sewer service to his house, that the application does not properly show the full permanent easement area for maintenance of the grinder pump and line, that the variance application violates a sharing agreement between the owners of 330 Arbutus (Wroten) and 332 Arbutus, and that a prior proposal to build a house on Lot 23 requiring a variance was not approved in part because of issues with the Mayo tank.
- Regarding the variance request for development on steep slopes, for the granting of a critical area variance, a determination must be made as to whether because of certain unique physical conditions peculiar to and inherent in the



property, strict implementation of the County's critical area program would result in an unwarranted hardship. In this case, this lot is encumbered by steep slopes and the proposal is development of an existing residential lot.

- A literal interpretation of the County's critical area program will deprive the applicant of rights that are commonly enjoyed by other properties in similar areas within the critical area of the County by denying them the right to develop an existing residential lot with an allowed use.
- The granting of the variances will not confer on the applicant special privileges that would be denied by COMAR, Title 27.
- The variances requested are not based on conditions or circumstances that are the result of actions by the applicant and does not arise from any condition relating to land or building use on any neighboring property.
- The granting of the variances will not adversely affect water quality or impact fish, wildlife or plant habitat and will be in harmony with the general spirit and intent of the County's critical area program.
- The applicant has overcome the presumption that the specific development does not conform to the general purpose and intent of the critical area law and has evaluated and implemented site planning alternatives.
- Regarding all of the requests, the granting of the variances requested will not alter the essential character of the neighborhood as other properties have been developed with dwellings and piers with mooring pilings.
- Approval of the variances will not substantially impair the appropriate use or development of adjacent property, as the proposed development for the dwelling will meet the minimum required setbacks from the side lot lines and will be located well away from the dwellings on the abutting lots.
- The location of the proposed pilings will not affect the adjacent waterfront since the lot to the east is already developed with a pier.

- Approval of the variances requested will not reduce forest cover in the limited development area with appropriate mitigation, but may be contrary to acceptable clearing and replanting practices.
- Approval of the requests will not be detrimental to the public welfare.
- The variances requested are considered to be the minimum necessary to afford relief in this case as the requests appear to be consistent with other properties in the neighborhood that were established before the critical area laws went into effect.
- Based upon the standards set forth under § 18-16-305 by which a variance may be granted, OPZ recommends *approval* of the requested variances.

### **Testimony and Exhibits**

Angelique Wroten was assisted at the hearing by Candice Bateman from DFI, Inc. They testified that the requested variances represent the minimum necessary to afford relief and allow a residence to be constructed on the subject property. The site cannot be developed without variances.

William Wroten, 3325 Glebe Drive, Edgewater, spoke in favor of the variance application.

William Keefe, 332 Arbutus Drive, Edgewater, (owns Lots 24 and 25) appeared to express concerns regarding the proposed development and how those plans might affect his property rights as owner of lot. His comments generated a helpful discussion that, I believe, addressed his concerns regarding sewer service to his property and easements related to that sewer arrangement. It also appeared that Mr. Keefe was uncertain what a property owner has once a variance is

approved. I explained that the property owner must still obtain grading and building permits from the County's Inspections and Permits.

A letter by Mr. Keefe was admitted into the record as County Exhibit 7.

There was no other testimony taken or exhibits received in the matter. The Hearing Officer did not visit the property.

### **County Requirements for Critical Area Variances**

§ 18-16-305(b) sets forth six separate requirements (in this case) that must be met for a variance to be issued for property in the critical area. They are (1) whether a denial of the requested variance would constitute an unwarranted hardship, (2) whether a denial of the requested variance would deprive the applicants of rights commonly enjoyed by other property owners, (3) whether granting the variance would confer a special privilege on the applicants, (4) whether the application arises from actions of the applicants, or from conditions or use on neighboring properties, (5) whether granting the application would not adversely affect the environment and be in harmony with the critical area program, and (6) whether the applicants have overcome the presumption in Natural Resources Article, § 8-1808(d)(2)(ii), of the State law that the variance request should be denied.

Provided that the applicants meet the above requirements, a variance may not be granted unless six additional factors are found: (1) the variance is the minimum variance necessary to afford relief; (2) the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is

located; (3) the variance will not substantially impair the appropriate use or development of adjacent property; (4) the variance will not reduce forest cover in the limited development and resource conservation areas of the critical area; (5) the variance will not be contrary to acceptable clearing and replanting practices required for development in the critical area; or (6) the variance will not be detrimental to the public welfare.

### **FINDINGS AND CONCLUSION**

Upon review of the facts and circumstances, I find, based upon the evidence, that the applicants are entitled to relief from the Code. The evidence shows that, because of the unique physical constraints of the subject property, the applicants cannot develop the property without the requested variances. Since the evidence shows that the property is grandfathered and is a legal lot, some relief is necessary. I find that the applicant has satisfied each of the elements found in § 18-16-305(b) and I will grant the requested variances.

There was nothing to suggest that the granting of the critical area and zoning variances would alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, reduce forest cover in the limited development and resource conservation areas of the critical area, or cause a detriment to the public welfare. Moreover, I find that the critical area and zoning variances requested represents the minimum relief.

## **ORDER**

PURSUANT to the application of Angelique Wroten, petitioning for a variance to allow a dwelling that does not comply with the designated location of a principal structure on a waterfront lot, with less setbacks than required, with disturbance to slopes 15% or greater and to allow mooring pilings with less setbacks than required;

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **6th day of June, 2018**,

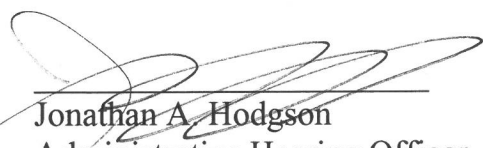
ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** the following variances in accordance with County Exhibit 2:

1. A critical area variance to § 17-8-201(a) to allow 822 square feet of disturbance to steep slopes, with the actual amount of disturbance to be determined at permitting; and
2. A zoning variance to the requirement of § 18-2-402(1) to allow a dwelling that does not comply with the designated location of a principal structure on a waterfront lot, and
3. A zoning variance of two (2) feet to the 25-foot rear lot line setback requirement of § 18-4-601 to allow the dwelling to be located 23 feet from the rear lot line; and
4. A zoning variance of three (3) feet to the 15-foot extended lot line setback requirement § 18-2-404(b) to allow two mooring pilings to be constructed 12 feet from the south side property line extended.

The foregoing variance is subject to the condition that the applicant shall comply with any instructions and necessary approvals from the Office of Planning and Zoning, the Department of Inspections and Permits, the Department of Health, and/or the Critical Area Commission.

This Order does not constitute a building permit. In order for the applicants to construct the structures permitted in this decision, they must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Furthermore, County Exhibit 2, referenced in this decision, is incorporated herein as if fully set forth and made a part of this Order. The proposed improvements shown on County Exhibit 2 shall be constructed on the subject property in the locations shown therein. The decision and order shall not prohibit the applicant from making minor changes to the facilities as presently shown on County Exhibit 2 to adjust for changes made necessary by comments or requirements that arise during plan review or construction, provided those minor changes do not exceed the variances granted herein. The reasonableness of any such change shall be determined by the Office of Planning and Zoning.



Jonathan A. Hodgson  
Administrative Hearing Officer

**NOTICE TO APPLICANT**

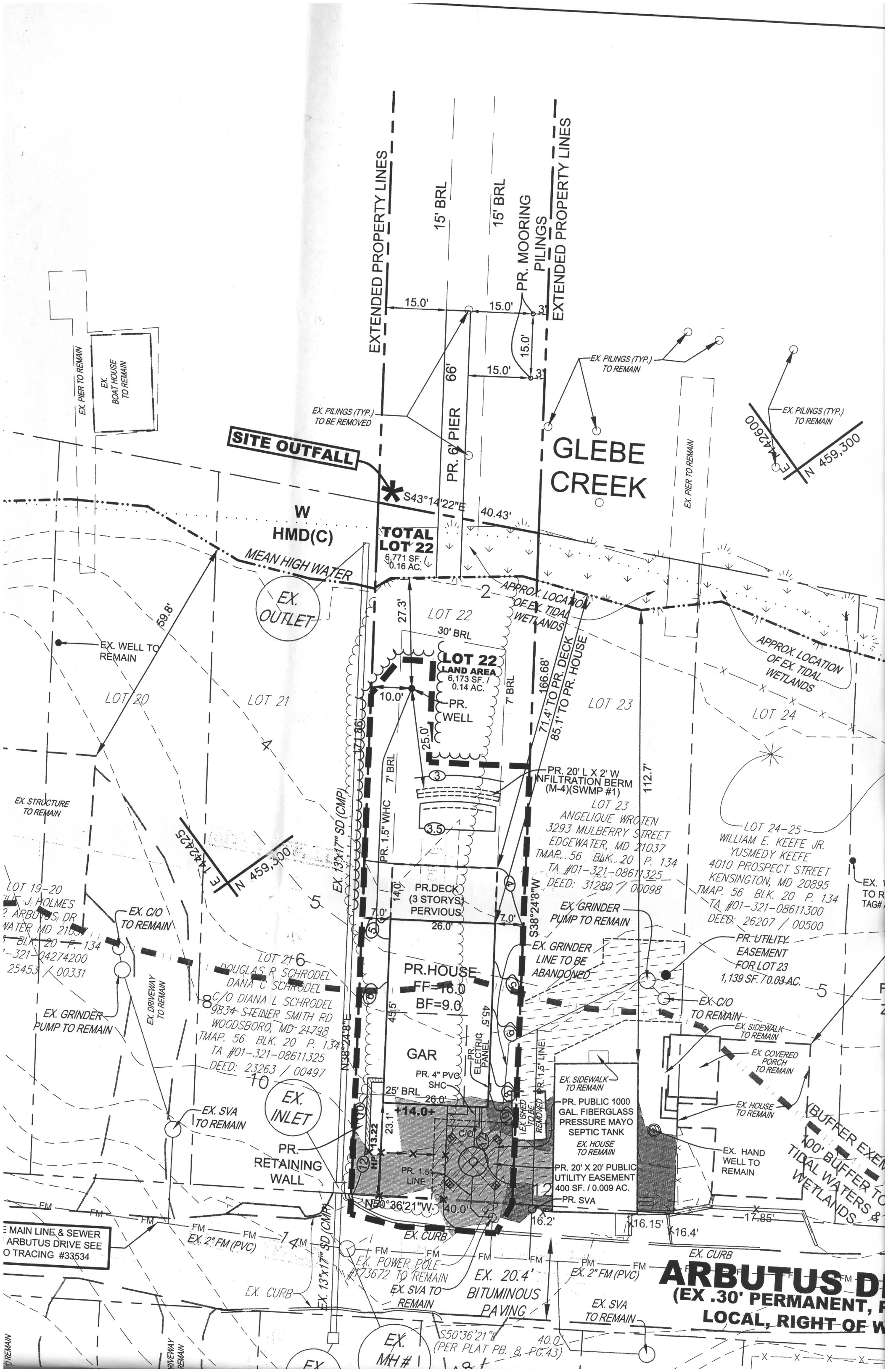
Within thirty days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest in this Decision and



aggrieved thereby may file a Notice of Appeal with the County Board of Appeals within thirty (30) days from the date of this Decision. **A permit for the activity that was the subject of this variance application will not be issued until the appeal period has elapsed.**

Further, § 18-16-405(a) provides that a variance or special exception that is not extended or tolled expires by operation of law unless the applicant within 18 months of the granting of the variance or special exception (1) obtains a building permit or (2) files an application for subdivision. Thereafter, the variance or special exception shall not expire so long as (1) construction proceeds in accordance with the permit or (2) a record plat is recorded among the land records pursuant to the application for subdivision, the applicant obtains a building permit within one year after recordation of the plat, and construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, otherwise they will be discarded.



**SITE OUTFALL**

**GLEBE CREEK**

**TOTAL LOT 22**  
6,771 SF.  
0.16 AC.

**LOT 22**  
LAND AREA  
6,173 SF.  
0.14 AC.

**LOT 23**  
ANGELIQUE WROTEN  
3293 MULBERRY STREET  
EDGEWATER, MD 21037  
TMAP. 56 BLK. 20 P. 134  
TA #01-321-08611325  
DEED: 31280 / 00098

**LOT 24-25**  
WILLIAM E. KEEFE JR.  
YUSMEDY KEEFE  
4010 PROSPECT STREET  
KENSINGTON, MD 20895  
TMAP. 56 BLK. 20 P. 134  
TA #01-321-08611300  
DEED: 26207 / 00500

**LOT 21-6**  
DOUGLAS R. SCHRODEL  
DANA C. SCHRODEL  
C/O DIANA L. SCHRODEL  
9834 STEINER SMITH RD  
WOODSBORO, MD 21798  
TMAP. 56 BLK. 20 P. 134  
TA #01-321-08611325  
DEED: 23263 / 00497

**LOT 19-20**  
J. J. HOLMES  
2 ARBUTUS DRIVE  
WATER MD 21037  
BLK. 20 P. 134  
TA #01-321-04274200  
25453 / 00331

**ARBUTUS DRIVE**  
(EX. 30' PERMANENT, F  
LOCAL, RIGHT OF W

**FINDINGS AND RECOMMENDATION  
OFFICE OF PLANNING AND ZONING  
ANNE ARUNDEL COUNTY, MARYLAND**

**APPLICANT:** Angelique Wroten

**ASSESSMENT DISTRICT:** 1st

**CASE NUMBER:** 2018-0078-V

**COUNCILMANIC DISTRICT:** 7th

**HEARING DATE:** May 31, 2018

**PREPARED BY:** Joan A. Jenkins  
Planner II

**REQUEST**

The applicant is requesting Variances to allow a dwelling that that does not comply with the designated location of a principal structure on a waterfront lot, with less setbacks than required, with disturbance to slopes 15% or greater and to allow mooring pilings with less setbacks than required on property located at 328 Arbutus Drive in Edgewater.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 6,173 square feet of land and is located with 40 feet of road frontage on the northeast side of Arbutus Drive, 635 feet northwest of Beach Drive. The subject property is identified as Lot 22 of Parcel 134 in Block 20 on Tax Map 56 in the Glebe Heights subdivision.

The property has been zoned R2 – Residential District since the adoption of comprehensive rezoning of the Seventh Councilmanic District zoning maps effective October 7, 2011.

This waterfront property located on Glebe Creek lies entirely within the Chesapeake Bay Critical Area, is designated LDA – Limited Development Area, and is mapped in a buffer modification area.

The site is currently improved with a driveway and a shed that straddles the lot line with Lot 23, and is to be removed.

**APPLICANT'S PROPOSAL**

The applicant wishes to construct a new dwelling with a 3-story waterfront deck, driveway, well, Step and Gravity Tank system, and a pier with two pilings for a boatlift.

**REQUESTED VARIANCES**

§ 18-2-402 (1) of the Anne Arundel Code stipulates that the location of a principal structure on a waterfront lot is based on an approximate average of the location of principal structures on

abutting lots intended to keep structures relatively in line with one another. There is no dwelling on the lot to the west; however, the proposed dwelling and deck project further forward than the façade of the dwelling on the abutting lot to the east necessitating a variance to this provision.

§18-4-601 of the Anne Arundel County Zoning Ordinance requires a principal structure in an R2 – Residential District be setback 25 feet from the rear lot line. The applicant proposes to construct a dwelling 23.1 feet from the rear lot line requiring a variance of two feet to the 25-foot rear lot line setback requirement.

§ 17-8-201(a) of the Anne Arundel Subdivision and Development Code states that development in the LDA and RCA designated areas may not occur on slopes of 15% or greater unless development will facilitate stabilization of the slope, is necessary to allow connection to a public utility, or is to provide direct access to the shoreline. All disturbance shall be limited to the minimum necessary. The proposed improvements will disturb 822 square feet of steep slopes.

§ 18-2-404 (b) of the Anne Arundel County Zoning Ordinance requires that a private pier or mooring piling shall be setback a minimum 15 feet from the extended property lines. The proposed boat lift pilings are located as close as three feet from the eastern property line extended requiring Variances of 12 feet to the 15-foot setback requirement for both pilings.

## **FINDINGS**

The subject property is roughly rectangular-shaped. The lot does not meet the minimum width requirement (40 feet provided, 80 feet required) for a lot in the R2 District and is grossly undersized in area (6,173 square feet provided, 20,000 square feet required) for a lot not served by public sewer in the R2 District. Development of the site is constrained by the narrowness and small size of the property making compliance with the Code difficult without Variances.

The existing critical area lot coverage is 319 square feet. With removal of the existing lot coverage and the addition of 1,606 square feet for construction of the proposed improvements, the post-construction lot coverage will be 1,606 square feet, which is well below the 2,043 square feet allowed under § 17-8-402 (b) of the Code.

A review of the 2016 County aerial photograph shows an eclectic mix of dwellings in this older waterfront community. Homes nearby on the waterfront were built as early as 1930 and as late as 1978 all prior to Critical Area laws going into effect.¹ Waterfront decks and piers are common amenities on waterfront homes.

The applicants' letter of explanation indicates that the proposed dwelling is of modest size for the neighborhood and is seemingly in line with the adjacent homes. The letter states that the adjacent home on lot 23 is located close to the roadway and would likely be closer to the water if it were reconstructed. The letter also states that the proposal is currently shown to provide the appropriate setbacks to the new Mayo system. In addressing the steep slopes, the letter explains

---

¹ Lot 18 c. 1930, Lot 19 1978, Lot 23 c. 1940, Lot 24 1965, Lot 26 c. 1940



that the entire frontage along the roadway is encumbered by 15% slopes or greater and the site cannot be accessed without disturbing the steep slopes. Regarding the rear setback Variance request, the applicant writes that the lessened setback allows the proposed home to be move further from the shoreline but still allow for sufficient area for the Step and Gravity Septic tank. As for the boat lift pilings, the letter explains that due to the narrow width of the lot (40') there is not sufficient area to provide mooring piles and that these piles will not have a negative impact on the adjacent piers or access to their slips/piers.

The **State of Maryland Critical Area Commission** had no comment, but stated that appropriate mitigation should be provided.

The **Development Division (Critical Area Team)** commented that the site contains a small area of steep slopes directly adjacent to Arbutus Drive, from which the site derives access. Disturbance to slopes is necessary to allow for any development of the lot. Minimization of the proposed slope disturbance is not possible due to the location of required utilities and site access.

The **Soil Conservation District** had no comment on the Variance request and will provide comments during the sediment control review.

The **Department of Inspections and Permits (Engineering Division)** commented that the subject application does meet the requirements of a complete storm water preliminary plan. To avoid the Mayo tank easement the proposed drive should be off-set from the garage with the minimum taper. A modification to excessive driveway slope is required. The site will be served by individual private water well and public Mayo tank sewer service. Currently the plan shows the adjacent existing connection to be reestablished in the future. The reconnection must be done first and will require a separate PWA. While the proposed storm water practice meets the environmentally sensitive design criteria, the clearing is excessive and an alternate practice is recommended and should be explored.

2. The **Health Department** has reviewed the well water supply systems for the referenced property and has determined that the proposed request adversely affects the well water supply system. The Health Department recommends denial of the above referenced request. The proposed Mayo Tank does not meet the required setback to the neighboring well on lot 23.

This Office received an email from a neighbor at 332 Arbutus Drive who has concerns over the shared Mayo Tank. He writes that when the grinder line is removed it will cut off sewer service to his house, that the application does not properly show the full permanent easement area for maintenance of the grinder pump and line, that the variance application violates a sharing agreement between the owners of 330 Arbutus (Wroten) and 332 Arbutus, and that a prior proposal to build a house on lot 23 requiring a variance was not approved in part because of issues with the Mayo tank.²

Regarding the Variance request for development on steep slopes, for the granting of a critical

---

² Variance case 2017-0297-V for a new dwelling with new lot coverage closer to the shoreline than the existing principal structure and less setbacks than required was withdrawn by the applicant.

area variance, a determination must be made as to whether because of certain unique physical conditions peculiar to and inherent in the property, strict implementation of the County's critical area program would result in an unwarranted hardship. In this case, this lot is encumbered by steep slopes and the proposal is development of an existing residential lot.

A literal interpretation of the County's critical area program will deprive the applicant of rights that are commonly enjoyed by other properties in similar areas within the critical area of the County by denying them the right to develop an existing residential lot with an allowed use. The granting of the variance will not confer on the applicant special privileges that would be denied by COMAR, Title 27. The variance request is not based on conditions or circumstances that are the result of actions by the applicant and does not arise from any condition relating to land or building use on any neighboring property. The granting of the variance will not adversely affect water quality or impact fish, wildlife or plant habitat and will be in harmony with the general spirit and intent of the County's critical area program. The applicant has overcome the presumption that the specific development does not conform to the general purpose and intent of the critical area law and has evaluated and implemented site planning alternatives.

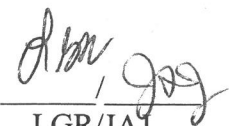
Regarding all of the requests, the granting of the Variance requests will not alter the essential character of the neighborhood as other properties have been developed with dwellings and piers with mooring pilings. Approval of the Variances will not substantially impair the appropriate use or development of adjacent property, as the proposed development for the dwelling will meet the minimum required setbacks from the side lot lines and will be located well away from the dwellings on the abutting lots. The location of the proposed pilings will not affect the adjacent waterfront since the lot to the east is already developed with a pier. Approval of the Variance requests will not reduce forest cover in the limited development area with appropriate mitigation, but may be contrary to acceptable clearing and replanting practices. Approval of the requests will not be detrimental to the public welfare.

The Variance requests are considered to be the minimum necessary to afford relief in this case as the requests appear to be consistent with other properties in the neighborhood that were established before the Critical Area laws went into effect.

### **RECOMMENDATION**

Based upon the standards set forth under § 18-16-305 of the County Code by which a variance may be granted, this Office recommends approval of a zoning Variance to §18-4-601 of two feet to the 25-foot rear lot line setback requirement for the dwelling to be located 23.1 feet from the rear lot line, approval of a zoning variance to § 18-2-402(1) to allow a dwelling that does not comply with the designated location of a principal structure on a waterfront lot, and approval of a critical area Variance to § 17-8-201(a) to allow 822 square feet of disturbance to steep slopes, actual disturbance to be determined at permitting, as shown on the site plan. Should the Hearing Officer approve the above Variance requests for the dwelling, this Office also recommends approval of a zoning Variance of 3 feet to the 15-foot setback requirement to allow two mooring pilings to be located 12 feet from the south side property line extended as shown on the site plan.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.

  
_____  
LGR/JAJ



CASE # 2018-0078 ✓  
FEE PAID 250-  
DATE 3/20/18



ZONE R2 ALEX _____  
200 MAP _____ 1000 MAP _____  
CRITICAL AREA:  
IDA _____ LDA ✓ RCA _____

## VARIANCE APPLICATION

*BMA 2 signs*

Applicant: Angelique Wroten  
(All persons having 10% or more interest in property)

Property Address: 328 Arbutus Drive, Edgewater MD, 21037

Property Location: 40 feet of frontage on the NE side of  
Arbutus Drive street, road, lane, etc.; 635 feet  
(N, s, e, W) of Beach Drive street, road, lane, etc. (nearest intersecting street).

Tax Account Number 1321-9024-8830 Tax District 1st Council District 7th

Waterfront Lot Yes Corner Lot No Deed Title Reference 31280/98

Zoning of Proeprty R-2 Lot # 22 Tax Map 56 Block 20 Parcel 134

Area (sq. ft. or acres) 6,173 Sf. Subdivision Name Glebe Heights

Description of Proposed Variance Requested (Explain in sufficient detail including distances from property lines, heights, of structures, size of structures, use, etc.)  
Article 18-2402(1) permit a primary structure with less average front yard setback than required, Article 17-8-201, to permit disturbance to Steep Slopes of 15% or greater in the Chesapeake Bay Critical Area (LDA and Buffer Modified) and to permit a primary structure with less setback than required in an R-2 zoning district (Article 18-4-601), and to Article 18-2-404 (b) to permit a pier or mooring piles with less setback than required.

The applicant hereby certifies that he or she has a financial, contractual, or proprietary interest equal to or in excess of 10 percent of the property; that he or she is authorized to make this application; that the information shown on this application is correct; and that he or she will comply with all applicable regulations of Anne Arundel County, Maryland.

Applicant's Signature _____

Angelique Wroten

Print Name

3293 Mulberry St

Street Number, Street, PO Box

Edgewater MD, 21037

City, State, Zip

301-440-1434

Home Phone

Work Phone

Owner's Signature _____

Angelique Wroten

Print Name

3293 Mulberry St

Street Number, Street, PO Box

Edgewater MD, 21037

City, State, Zip

301-440-1434

Home Phone

Work Phone

*SPS 3/23/18*

### DESCRIPTION

VARIANCE TO ALLOW A DWELLING THAT DOES NOT COMPLY WITH THE DESIGNATED LOCATION OF A PRINCIPAL STRUCTURE ON A WATERFRONT LOT, WITH LESS SETBACKS THAN REQUIRED, WITH DISTURBANCE TO SLOPES 15% OR GREATER AND TO ALLOW MOORING PILINGS WITH LESS SETBACKS THAN REQUIRED



IN THE OFFICE OF ADMINISTRATIVE HEARINGS

**CASE NUMBER: 2022-0005-V**

---

**RICK GILBREATH (CONTRACT PURCHASER)**

FIRST ASSESSMENT DISTRICT

DATE HEARD: MARCH 15, 2022

---

ORDERED BY:

**DOUGLAS CLARK HOLLMANN**  
ADMINISTRATIVE HEARING OFFICER

PLANNER: **ROBERT KONOWAL**

---

DATE FILED: **MARCH 29, 2022**

## **PLEADINGS**

Rick Gilbreath (Contract Purchaser), hereinafter the applicant, seeks a variance (2022-0005-V) to allow a dwelling with less setbacks than required and with disturbance to slopes of 15% or greater¹ and a variance to allow mooring pilings with less setbacks than required on property with a street address of 326 Arbutus Drive, Edgewater, MD 21037.

## **PUBLIC NOTIFICATION**

The hearing notice was posted on the County's website in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 300 feet of the subject property was notified by mail, sent to the address furnished with the application. Wayne Newton testified that the property was posted for more than 14 days prior to the hearing and submitted the affidavit of Todd Lopez to that effect (Applicant's Exhibit 1). Therefore, I find and conclude that there has been compliance with the notice requirements.

## **FINDINGS**

A hearing was held on March 15, 2022, in which the witnesses were sworn and the following was presented regarding the proposed variance requested by the applicant.

---

¹ The Office of Planning and Zoning has determined that the slopes shown on the site plan do not meet the definition of steep slopes and therefore no steep slope variance is required.

## **THE PROPERTY**

The applicant is the contract purchaser of the subject property which has 40 feet of frontage on the northeast side of Arbutus Drive, 675 feet west of Beach Drive, Edgewater. It is known as Lot 21 of Parcel 134 in Grid 20 on Tax Map 56 in the Glebe Heights subdivision. The property comprises 6,047 square feet and is zoned R2–Residential District. This waterfront lot on Glebe Creek is designated in the Chesapeake Bay Critical Area as limited development area (LDA) and is located in a buffer modification area (BMA).

The site is currently a vacant, undeveloped lot. The property is served by private well and public mayo pressure tank sewer system.

## **THE PROPOSED WORK**

The proposal calls to construct a three-story, single-family dwelling with attached garage and front attached deck. The applicant is also constructing a pier with two mooring pilings as shown on the site plan admitted into evidence at the hearing as County Exhibit 2. The proposed dwelling will be 24 feet from the rear lot line and 6 feet from the northwest side lot line. The applicant has also proposed two mooring pilings three feet from the southeast property line.

## **THE ANNE ARUNDEL COUNTY CODE**

§ 18-4-601 requires that a principal structure in an R2 district be set back a minimum of 25 feet from a rear lot line and a minimum of 7 feet from a side lot line.

§ 18-2-404(b) requires a mooring piling be set back a minimum of 15 feet from a lot line extended.

### **The Variances Requested**

The proposed work will require the following zoning variances:

1. A zoning variance of one (1) foot to the 25-foot **rear** lot line setback requirement of § 18-4-601 to allow the proposed **dwelling** to be constructed as close as 24 feet from the rear lot line as shown on County Exhibit 2; and
2. A zoning variance of one (1) foot to the 7-foot **side** lot line setback requirement of § 18-4-601 to allow the proposed **dwelling** to be constructed as close as 6 feet from the northwest side lot line as shown on County Exhibit 2; and
3. A zoning variance of twelve (12) feet to the 15-foot **side lot line extended** setback requirement of § 18-2-404(b) to allow the two proposed **pilings** to be constructed as close as 3 feet from the southeast side lot line extended as shown on County Exhibit 2.

### **The Evidence Submitted At The Hearing**

#### **Findings and Recommendations of the Office of Planning and Zoning (OPZ)**

Robert Konowal, a zoning analyst with the OPZ, presented the following findings:

- *Variances related to dwelling.* The subject property having a lot width of only 40 feet does not meet the minimum lot width of 80 feet for a lot in a R2-district. This narrow lot width provides for a building envelope of only 26 feet.

There is also a need to provide a public stormwater drainage easement of 7.5 feet along the east side lot line further reducing the available building envelope. The applicant has moved the dwelling closer to the road than the Code requirement in an effort to maximize the buffer to the shoreline. These conditions do create a practical difficulty in complying with the side and rear lot line setbacks of the Code.

- The requested relief of one-foot to the west side lot line setback and three feet to the rear lot line setback are considered the minimum necessary to overcome the constraints of the lot.
- Approval of the variances would not alter the essential character of the neighborhood nor substantially impair the appropriate use or development of any adjacent property. With mitigation the variances would not reduce forest cover in the LDA, would not be contrary to acceptable clearing and replanting practices and would not be detrimental to the public welfare.
- *Variances related to pilings.* OPZ finds that the subject property has approximately 40 feet of frontage at the water's edge. Typically, docking and mooring facilities require 46 to 48 feet of frontage on the water to provide for a six-foot wide pier and a 10 to 12-foot wide boatlift set back 15 feet from the extended side property lines. The 40-foot lot width of the subject does create a practical difficulty in complying with the requirements of the Code for a pier and mooring pilings. Denial of a variance would cause hardship in the use of this waterfront property.



- While a variance is considered to be appropriate in principle, the requested variance is not considered to be the minimum necessary to afford relief. The applicant has provided for a 15-foot wide boatlift which is considered excessive given the narrow frontage of the property. It would also be preferable to center the pier and pilings within the extended property lines rather than have one side of the facility significantly deficient and the other side in compliance. This would have provided for the facility with a 12-foot boatlift to be located 11 feet off the east and west extended property lines which would require two variances of only four feet. It would appear that the applicant may have sited the facility to one side so as to possibly accommodate a second boatlift on the west side of the pier in the future. Given the subject property's narrow lot dimension it is not reasonable to expect use of both sides of a pier for the docking of watercraft.
- Approval of the variances would not alter the essential character of the neighborhood however the variance could impair the appropriate use or development of that property abutting to the east. The variances would not be detrimental to the public welfare. Notwithstanding the foregoing, the variances are not considered to be minimum necessary to afford relief.
- The Department of Health indicated they do not have an approved plan for this project but would have no objection provided a plan is submitted to and approved by them.

- The Critical Area Commission had no objection but did indicate appropriate mitigation should be provided.
- The Development Division (Critical Area Team) advised the slopes shown on the site plan do not meet the definition of steep slopes and therefore no variance is required. The Division had no comment on the setback variance requests.
- The Department of Inspection and Permits, Engineering Division did not provide comments at this time.
- Based upon the standards set forth in § 18-16-305 of the County Code under which a variance may be granted, OPZ recommends denial of the variances of 12 feet to allow two mooring pilings to be located three feet from the east extended property line and approval of the variances for the dwelling.

#### **Other Testimony and Exhibits**

The applicant was assisted at the hearing by Wayne Newton and Timothy Brenza of Messick & Associates, the applicant's engineers. Evidence was presented that the applicant wants to construct a three-story single-family dwelling, an attached garage, a front deck, a dock and pilings. The lot is narrow at 40 feet. There is a 7.5-foot wide stormwater management easement along the southeast side of the property, which pushes the footprint of the dwelling into the northwest side setback one-foot. A Mayo tank in the southwest corner must be avoided, causing the need for the one-foot rear setback variance request.

The other improvements do not need variances. The applicant plans a pier and pilings. Centering the pier on the 40-foot wide shoreline will require a 12-foot variance to the 15-foot side lot line extended setback to allow a 15-foot wide slip to be flanked by two pilings 3 feet from the southeast side lot line extended.

Angelique Wroten testified that she lives immediately to the northwest of the subject property on Lots 19 and 20. Variances were granted in Case No. 2018-0078-V to allow the construction of a new home on Lot 22, the other side of the subject property from her. That house is being built. Lot 21 (the subject property) was used as a staging area for the construction taking place on Lot 22. She submitted a photograph of the shoreline along these homes taken from the community park owned by the Glebe Heights Community Association, Inc., which is located across from her home. She testified that the homes could be smaller and are not the minimum necessary to allow the applicant to develop the property.

Dan Ross and Shelley Ross live nearby at 340 Arbutus Drive and testified to the public safety concerns about automobiles and trucks speeding up and down Arbutus Drive and that granting the requested variances would only increase traffic.

Elizabeth Simmons testified that she lives across the street and uphill and is also concerned about the size of the proposed home and traffic on Arbutus Drive, among other things.

There was no other testimony taken or exhibits received in the matter. The Hearing Officer did not visit the property.

## **DECISION**

### **Requirements for Zoning Variances**

§ 18-16-305 sets forth the requirements for granting a zoning variance.

Subsection (a) reads, in part, as follows: a variance may be granted if the Administrative Hearing Officer finds that practical difficulties or unnecessary hardships prevent conformance with the strict letter of this article, provided the spirit of law is observed, public safety secured, and substantial justice done. A variance may be granted only if the Administrative Hearing Officer makes the following affirmative findings:

- (1) Because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape or exceptional topographical conditions peculiar to and inherent in the particular lot, there is no reasonable possibility of developing the lot in strict conformance with this article; or
- (2) Because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicant to develop the lot.

The variance process for subsection (1) above is a two-step process. The first step requires a finding that special conditions or circumstances exist that are peculiar to the land or structure at issue which requires a finding that the property whereupon the structures are to be placed or use conducted is unique and unusual in a manner different from the nature of the surrounding properties. The second

part of the test is whether the uniqueness and peculiarity of the property causes the zoning provisions to have a disproportionate impact upon the subject property causing the owner a practical difficulty or unnecessary hardship. “Uniqueness” requires that the subject property have an inherent characteristic not shared by other properties in the area. *Trinity Assembly of God of Baltimore City, Inc. v. People’s Counsel for Baltimore County*, 178 Md. App. 232, 941 A.2d 560 (2008); *Umerley v. People’s Counsel for Baltimore County*, 108 Md. App. 497, 672 A.2d 173 (1996); *North v. St. Mary’s County*, 99 Md. App. 502, 638 A.2d 1175 (1994), cert. denied, 336 Md. 224, 647 A.2d 444 (1994).

The variance process for subsection (2) - practical difficulties or unnecessary hardship - is simpler. A determination must be made that, because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship, and to enable the applicant to develop the lot.

Furthermore, whether a finding is made pursuant to subsection (1) or (2) above, a variance may not be granted unless the hearing officer also finds that: (1) the variance is the minimum variance necessary to afford relief; (2) the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located, (3) substantially impair the appropriate use or development of adjacent property, (4) reduce forest cover in the limited development and resource conservation areas of the critical area, (5) be contrary to

acceptable clearing and replanting practices required for development in the critical area, or (6) be detrimental to the public welfare.

### **Findings - Zoning Variances**

I find, based upon the evidence, that because of the unique physical conditions peculiar to and inherent in the subject property, i.e., the narrow width of the property at 40 feet, that there is no reasonable possibility of developing the lot in strict conformance with the Code. The property is further limited by the 7.5-foot stormwater drainage easement along the southeast side. The applicant has limited the requested variances for the dwelling to one-foot for the rear setback and one-foot from the northwest side setback.

The same conclusion is reached as to the requested variance to the 15-foot extended lot line setback requirement for the pilings. Shifting the pier to the northwest would not eliminate the need for the requested variance. The maritime development along this portion of Glebe Creek is similar. The variance will not impede navigation.

I further find that the requested variances are the minimum variance necessary to afford relief, that the granting of the variances will not alter the essential character of the neighborhood or district in which the lot is located, will not substantially impair the appropriate use or development of adjacent property, will not reduce forest cover in the LDA of the critical area, will not be contrary to acceptable clearing and replanting practices required for development in the critical area, or be detrimental to the public welfare.



## **ORDER**

PURSUANT to the application of Rick Gilbreath (Contract Purchaser), petitioning for a variance to allow a dwelling with less setbacks than required and with disturbance to slopes of 15% or greater and a variance to allow mooring pilings with less setbacks than required on property with a street address of 326 Arbutus Drive, Edgewater;

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **29th day of March, 2022**,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is **granted**:

1. A zoning variance of one (1) foot to the 25-foot **rear** lot line setback requirement of § 18-4-601 to allow the proposed **dwelling** to be constructed as close as 24 feet from the rear lot line as shown on County Exhibit 2; and
2. A zoning variance of one (1) foot to the 7-foot **side** lot line setback requirement of § 18-4-601 to allow the proposed **dwelling** to be constructed as close as 6 feet from the northwest side lot line as shown on County Exhibit 2; and
3. A zoning variance of twelve (12) feet to the 15-foot **side lot line extended** setback requirement of § 18-2-404(b) to allow the two proposed **pilings** to be constructed as close as 3 feet from the southeast side lot line extended as shown on County Exhibit 2.

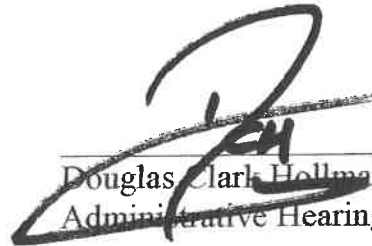
The foregoing variances are subject to the following conditions:

- A. The applicant shall comply with any instructions and necessary approvals from the Office of Planning and Zoning, the Department of Inspections and Permits, the Department of Health, and/or the Critical Area Commission.
- B. The applicant shall comply with any instructions and necessary approvals from the Maryland Department of the Environment and the United States Army Corps of Engineers.

This Order does not constitute a building permit. In order for the applicant to construct the structures permitted in this decision, the applicant must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Furthermore, County Exhibit 2, referenced in this decision, is incorporated herein as if fully set forth and made a part of this Order. The proposed improvements shown on County Exhibit 2 shall be constructed on the subject property in the locations shown therein. The decision and order shall not prohibit the applicant from making minor changes to the facilities as presently shown on County Exhibit 2 to adjust for changes made necessary by comments or requirements that arise during plan review or construction, provided those minor changes do not exceed the variances granted herein. The reasonableness of any

such change shall be determined by the Office of Planning and Zoning and/or the Department of Inspections and Permits.



Douglas Clark Hollmann  
Administrative Hearing Officer

### **NOTICE TO APPLICANT**

**This Order does not constitute a building permit. In order for the applicant to perform the work permitted in this decision, the applicant must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.**

Any person, firm, corporation, or governmental agency having an interest in this Decision and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals within thirty (30) days from the date of this Decision. **If the variance or variances granted in this case relate to work in the critical area, a permit for the activity that was the subject of this variance application will not be issued until the appeal period has elapsed.**

Further, § 18-16-405(a) provides that a variance or special exception that is not extended or tolled **expires by operation of law** unless the applicant **within 18 months** of the granting of the variance or special exception (1) obtains a building permit or (2) files an application for subdivision. Thereafter, the variance or special exception shall not expire so long as (1) construction proceeds in accordance with the permit or (2) a record plat is recorded among the land records pursuant to the application for subdivision, the applicant obtains a building permit within one year after recordation of the plat, and construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, or they may be discarded.

**CO. EXHIBIT#:** 1  
**CASE:** 2022-0005-V  
**DATE:** 3/15/22

**FINDINGS AND RECOMMENDATIONS  
OFFICE OF PLANNING AND ZONING  
ANNE ARUNDEL COUNTY, MARYLAND**

**APPLICANT:** Rick Gilbreath

**ASSESSMENT DISTRICT:** 1st

**CASE NUMBER:** 2022-0005-V

**COUNCILMANIC DISTRICT:** 7th

**HEARING DATE:** March 15, 2022

**PREPARED BY:** Robert Konowal  
RK. Planner

**REQUEST**

The applicant is requesting variances to allow a dwelling with less setbacks than required and with disturbance to slopes of 15% or greater and to allow mooring pilings with less setbacks than required on property located at 326 Arbutus Drive in subdivision of Glebe Heights, Edgewater.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 6,047 square feet of land and is located with 40 feet of frontage on the northeast side of Arbutus Drive, 675 feet west of Beach Drive. The property is identified as Parcel 134, in Grid 20 on Tax Map 56. These lands have been zoned R2-Residential District since the adoption of comprehensive rezoning for Seventh Council District January 29, 2012.

This is a waterfront property located off Glebe Creek within the Chesapeake Bay Critical Area. The Critical Area designation for these lands is "LDA-Limited Development Area". The site is mapped within a buffer modification area.

The site is a vacant, undeveloped lot. The property is served by private well and public mayo pressure tank sewer system.

**APPLICANTS' PROPOSAL**

The applicant wishes to construct a three-story, single family detached dwelling with attached garage and front attached deck. The applicant is also constructing a pier with two mooring pilings

**REQUESTED VARIANCES**

Section 17-8-201 of the Anne Arundel County Code states that development in the Limited Development Area (LDA) may not occur within slopes of 15% or greater unless development will facilitate stabilization of the slope or the disturbance is necessary to allow connection to a public utility; or is to provide direct access to the shoreline.

The slopes shown on the site plan do not meet the definition of steep slopes and therefore no

variance is required.

Section 18-4-601 of the Code requires that a principal structure in an R2 District be set back a minimum of 25 feet from a rear lot line whereas the applicant is proposing 22 feet necessitating a variance of three feet.

Section 18-4-601 of the Code requires that a principal structure in an R2 District be set back a minimum of seven feet from a side lot line whereas the applicant is proposing six feet from the northwest side lot line necessitating a variance of one foot.

Section 198-2-404 (b) of the Code requires a mooring piling be set back a minimum of 15 feet from a lot line extended whereas the applicant has proposed two mooring pilings three feet from the southeast property line extended necessitating variances of 12 feet.

## **FINDINGS**

### *Variances related to dwelling*

The subject property having a lot width of only 40 feet does not meet the minimum lot width of 80 feet for a lot in a R2-Residential District. This narrow lot width provides for a building envelope of only 26 feet. There is also a need to provide a public stormwater drainage easement of 7.5 feet along the east side lot line further reducing the available building envelope. The applicant has moved the dwelling closer to the road than the Code requirement in an effort to maximize the buffer to the shoreline. These conditions do create a practical difficulty in complying with the side and rear lot line setbacks of the Code.

The requested relief of one foot to the west side lot line setback and three feet to the rear lot line setback are considered the minimum necessary to overcome the constraints of the lot.

Approval of the variances would not alter the essential character of the neighborhood nor substantially impair the appropriate use or development of any adjacent property. With mitigation the variances would not reduce forest cover in the Limited Development Area, would not be contrary to acceptable clearing and replanting practices and would not be detrimental to the public welfare.

### *Variances related to pilings*

This Office finds that the subject property has approximately 40 feet of frontage at the water's edge. Typically, docking and mooring facilities require 46 to 48 feet of frontage on the water to provide for a six-foot wide pier and a 10 to 12-foot wide boat lift set back 15 feet from the extended side property lines. The 40-foot lot width of the subject does create a practical difficulty in complying with the requirements of the Code for a pier and mooring pilings. Denial of a variance would cause hardship in the use of this waterfront property.

While a variance is considered to be appropriate in principle, the requested variance is not considered to be the minimum necessary to afford relief. The applicant has provided for a 15-

foot wide boat lift which is considered excessive given the narrow frontage of the property. It would also be preferable to center the pier and pilings within the extended property lines rather than have one side of the facility significantly deficient and the other side in compliance. This would have provided for the facility with a 12-foot boat lift to be located 11 feet off the east and west extended property lines which would require two variances of only four feet. It would appear that the applicant may have sited the facility to one side so as to possibly accommodate a second boat lift on the west side of the pier in the future. Given the subject property's narrow lot dimension it is not reasonable to expect use of both sides of a pier for the docking of watercraft.

Approval of the variances would not alter the essential character of the neighborhood however the variance could impair the appropriate use or development of that property abutting to the east. The variances would not be detrimental to the public welfare. Notwithstanding the foregoing, the variances are not considered to be minimum necessary to afford relief.

The **Anne Arundel County Department of Health** indicated they do not have an approved plan for this project but would have no objection provided a plan is submitted to and approved by them.

The **State of Maryland Critical Area Commission** had no objection but did indicate appropriate mitigation should be provided.

The **Development Division (Critical Area Team)** advised the slopes shown on the site plan do not meet the definition of steep slopes and therefore no variance is required. The Division had no comment on the setback variance requests.

The **Department of Inspection and Permits, Engineering Division** did not provide comments at this time.

### **RECOMMENDATION**

Based upon the standards set forth in Section 18-16-305 of the Anne Arundel County Code under which a variance may be granted, this Office recommends **denial** of the variances of 12 feet to allow two mooring pilings to be located three feet from the east extended property line and **approval** of the following all as shown on the attached site plan:

1. A variance of one foot to allow a dwelling six feet from the west side lot line, and
2. A variance of three feet to allow a dwelling to be located 22 feet from the rear lot line.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.

## For Office Use Only

CASE # 2022-0005-VFEE PAID 250-DATE 1/3/2022

## For Office Use Only

ZONE R2CRITICAL AREA: IDA ___ LDA X RCA ___BMA: Yes X No ___NO. OF SIGNS 2

## VARIANCE APPLICATION

NOTE: This form can be downloaded to your computer and filled out utilizing Adobe Reader (or similar product). It can also be printed and filled out by hand.

Applicant(s): Rick Gilbreath (contract purchaser)  
 (Applicant must have a financial, contractual, or proprietary interest in the property)

Property Address: 326 ARBUTHUS DRIVE EDgewater, MARYLAND 21037

Property Location: 40 feet of frontage on the (N, S, E, W) side of ARBUTHUS DRIVE ;  
 (Enter Street Name)

675 1/2 feet (N, S, E, W) of (Nearest intersecting street) BEACH DRIVE  
 (Enter Street Name)

12-digit Tax Account Number 01-321-06206407 Tax District (1ST) Council District (7)

Waterfront Lot: Y ☒ N ☐ Corner Lot: Y ☐ N ☒ Deed Title Reference L23263/F497

Zoning District R-2 Lot # 21 Tax Map 56 Block/Grid 20 Parcel 134

Area 6,047 SF (Sq Ft, or Acres) Subdivision Name GLEBE HEIGHTS

Description of Proposed Project and Variance Requested (Brief, detail fully in letter of explanation) A VARIANCE TO

1) TO REDUCE THE REAR YARD SETBACK BY 2' (18-4-601); 2) TO ALLOW DISTURBANCE TO  
A 15% SLOPE (17-8-201a) AND 3) TO ALLOW A MOORING PILE WITH A 3' SETBACK (18-2-404b)

The applicant hereby certifies that he or she has a financial, contractual, or proprietary interest in the property; that he or she is authorized to make this application; that the information shown on this application is correct; and that he or she will comply with all applicable regulations of Anne Arundel County, Maryland.

Applicant's Signature [Signature] Owner's Signature [Signature]

Print Name RICK GILBREATH Print Name DOUGLAS R. & DANA C. SCHRODEL

Mailing Address 805 Coachway Mailing Address 9834 STEINER SMITH ROAD

City, State, Zip Annapolis, MD 21401 City, State, Zip WOODSBORO MD 21798-9314

Work Phone _____ Work Phone 862-812-4494

Home Phone 410-956-1889 Home Phone _____

Cell Phone 443-336-3733 Cell Phone 717-690-6200

Email Address grick2@live.com Email Address dana.schrodel@yahoo.com

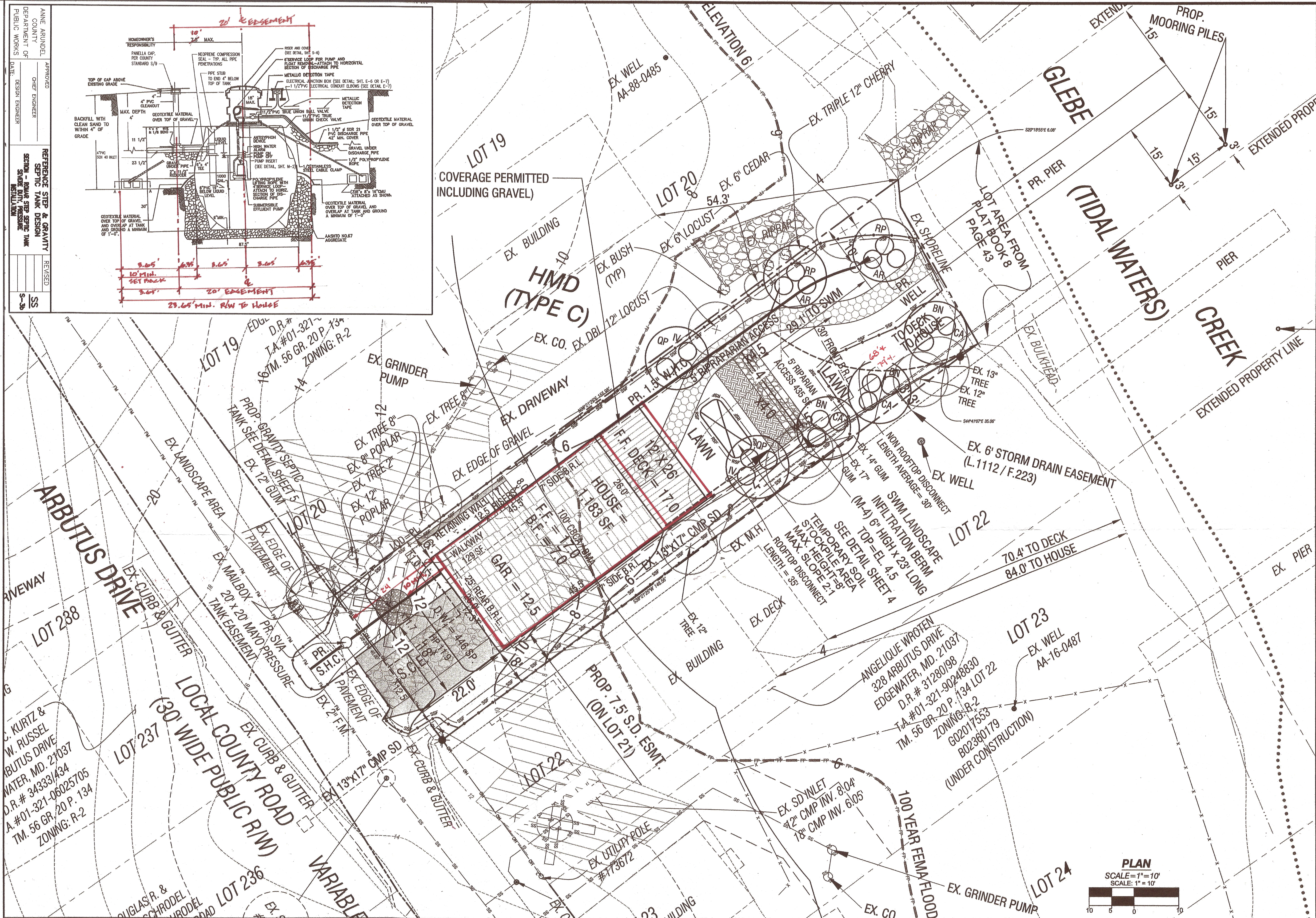
## *** Below For Office Use Only ***

Application accepted by Anne Arundel County Office of Planning and Zoning: [Signature] 1/13/2022  
 Initials Date

Variance to allow a dwelling with less setbacks than required  
and with disturbance to slopes of 15% or greater and to  
allow mooring piles (2) with less setbacks than required



LEGEND	
EXISTING GUY WIRE	○ Sign
EXISTING SIGN	○ EX. SIGN
EXISTING POLES	○ EX. POLES
EXISTING SANITARY SEWER	○ EX. SEWER
EXISTING SANITARY FORCEMAIN	○ EX. FORCEMAIN
EXISTING WATER WELL	○ EX. WELL
EXISTING CONTOUR	— 10' —
SOIL TYPES	HMD
EXISTING FENCE	— X —
EXISTING BUILDING	— [ ] —
EXISTING DRIVEWAY	— [ ] —
EXISTING CURB	— [ ] —
EXISTING BOUNDARY	— [ ] —
EXISTING PROPERTY LINE	— [ ] —
EXISTING WOODLANDS	— [ ] —
EXISTING OVERHEAD ELECTRIC LINES	— OH —
EXISTING MAILBOX	— [ ] —
EXISTING PAVING	— [ ] —
EXISTING GRAVEL ROAD	— [ ] —
PROPOSED	
INTEGRATION BERM AREA	[ ]
BUILDING	[ ]
CONTOUR	[ ]
PROPOSED LIMITS OF DISTURBANCE	[ ]
PROPOSED SUPER SILT FENCE	[ ]
TEMPORARY STOCKPILE AREA	[ ]
15% SLOPES	[ ]
B.R.L.	[ ]
100' CBCL / BMA	[ ]



REVISION	DESCRIPTION	BY	DATE

**MESSICK & ASSOCIATES**  
CONSULTING ENGINEERS,  
PLANNERS AND SURVEYORS  
7 OLD SOLOMONS ISLAND ROAD, SUITE 202  
ANNAPOLIS, MARYLAND 21401  
(410) 266-3212 * FAX (410) 266-3502  
email: ENGR@messickandassociates.com

STATE OF MARYLAND  
LANDSCAPE ARCHITECT  
JERRY J. MESSICK  
NO. 021  
12-6-21  
PROFESSIONAL CERTIFICATION: I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME AND THAT I AM A DULY LICENSED LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF MARYLAND. LICENSE NO. 021. EXPIRATION DATE: 09-14-2023.

OWNER/ DEVELOPER  
DOUGLAS R. & DANA C. SCHRODEL  
9834 STEINER SMITH ROAD  
WOODSBORO, MD. 21798-9314  
PHONE: C/O 410-266-3212

**GRADING & SEDIMENT CONTROL PLAN (10 SCALE ENLARGEMENT)**  
**GLEBE HEIGHTS LOT 21**  
326 ARBUTUS DRIVE  
GRADING, EROSION, SEDIMENT CONTROL & VARIANCE PLANS  
TAX MAP: 56 GRID:20 PARCEL: 134  
ZONING: R-2  
FIRST TAX ASSESSMENT DISTRICT ANNE ARUNDEL COUNTY, MARYLAND 21037  
**G.P.#02019127 A.A.S.C.D.#2021-0524**  
SCALE: AS SHOWN DATE: DECEMBER 2021 SHEET 5 OF 6